

¹ Possible Language: “If present in Court for the hearing on the SEC’s motion for a preliminary injunction, Mykalai Kontilai would assert his Fifth Amendment Privilege against self-incrimination with respect to any question concerning (a) each of the topics listed in the SEC’s Proposed Findings of Fact (paragraphs 1-135 of Docket # 1052); (b) each of the “subjects of testimony” listed under “SEC Witnesses” in Docket # 1057; (c) each of the exhibits listed in the “SEC Initial Exhibit List 7/29/22” attached to Docket # 1057; and (d) each of the topics listed on page 11 of the brief appearing as Docket # 1051 (ECF page *15). The SEC does not contest Kontilai’s right to assert the privilege. The parties will be free to argue the applicability or not of any adverse inference from the assertion of the Fifth Amendment privilege reflected in this stipulation on the same basis as if Mykalai Kontilai had appeared in Court and had invoked the Fifth Amendment privilege in response to specific questions on any of these topics, subjects of testimony, or exhibits.”

31, 2022, the parties shall either file a stipulation resolving the motion or file a letter stating that no agreement can be reached and the Court should therefore rule on the motion for issuance of the subpoena.

SO ORDERED.

Dated: August 18, 2022
New York, New York



GABRIEL W. KORENSTEIN
United States Magistrate Judge